



Our reference 12566
Phone +61 2 8216 3021
Email michaelb@marquelawyers.com.au

7 March 2019

Ms Bettina Arndt

PRIVATE & CONFIDENTIAL – NOT FOR PUBLICATION

By email: BettinaMedia@talkhub.com and bettina@bettinaarndt.com.au

Dear Ms Arndt

Your Publications - Concerns Notice

We act for Ms Nina Funnell (**Ms Funnell**). Ms Funnell, as you are aware, is a professional journalist and published author. She has a high public profile and an outstanding reputation as a journalist. Her work has been published in many mainstream media publications including The Sydney Morning Herald, The Age, The Saturday Paper, The Daily Telegraph, The Australian, news.com.au, The Guardian, ABC Online, and New Matilda. She is the winner of a Walkley Award and a United Nations Australia Media Award. In 2010 she was a nominee for Young Australian of the Year and the winner of an Australian Human Rights Commission award.

Ms Funnell's work has been focused largely on sexual assault victims and women's rights, and she has acquired a reputation as one of Australia's most prominent and respected writers and advocates in this field. She authored the Red Zone Report into the incidence of sexual assault and sexual harassment at residential colleges at the University of Sydney. She serves or has served on boards and committees relating to her field of interest and expertise, including the board of End Rape On Campus (**EROC**), the board of the NSW Rape Crisis Centre, the board of the National Children's and Youth Law Centre, the Our Watch Media Advisory Group, the NSW Premier's Council on Preventing Violence Against Women and the NSW Commission for Children and Young People Expert Advisory Board.

Ms Funnell's personal and professional reputation as a journalist and advocate for women's and victims' rights has been built over many years and is of high value to her. It also provides her sole source of work and income.

1. Publications

1.1 We refer to your:

- (a) blog article 'More lies from Nina Funnell' published on your website <http://www.bettinaarndt.com.au/news/more-lies-from-nina-funnell/> (**Website**) on 5 February 2019 (**Blog Article**);
 - (b) post on the 'timeline' of your Facebook page (**Facebook Page**) <https://www.facebook.com/thebettinaarndt/> on 6 February 2019 at 4.41am (**Facebook Post**);
 - (c) tweet on the 'feed' of your Twitter account (**Twitter Feed**) <https://twitter.com/thebettinaarndt/status/1092701779320426497> on 5 February 2019 at 12.29am (**Tweet A**); and
 - (d) tweet on your Twitter Feed <https://twitter.com/thebettinaarndt/status/1092839948632408064> on 5 February 2019 at 9.38am (**Tweet B**).
- 1.2 Copies of the Blog Article, Facebook Post, Tweet A and Tweet B (together, **Publications**) are **enclosed**.
2. **Defamatory comments**
- 2.1 The Blog Article refers to Ms Funnell and her article titled 'Risks to foreign students on campus' dated 2 February 2019 and published in The Saturday Paper.
- 2.2 The Blog Article includes the following statements:
- (a) *How appalling that this tragic event [the rape and murder of Aya Maasarwe] was used by Nina Funnell, in her recent article in The Saturday Paper, to scare people about the safety of our campuses and grossly misrepresent the risks to overseas students of studying in this country;*
 - (b) *Nina Funnell, who was one of the founders of End Rape on Campus, has been publishing a series of misleading articles attempting to discredit me, knowing that if I succeed in revealing the true facts about the low incidence of rape on our campuses it will undermine her efforts to promote a scare campaign;*
 - (c) *This is simply the latest effort by Funnell to misrepresent my work using false statistics and distorted arguments – she's published a string of such articles in recent years;*
 - (d) *Funnell deliberately uses the term 'rape' to mislead her audience about the seriousness of the problem she is discussing; and*
 - (e) *Funnell's manipulation of this story to serve her ideological agenda is an unethical act and thoroughly unprofessional*
- (together, the **Article Statements**).
- 2.3 The Facebook Post consists of a photograph of Nina Funnell and makes the following statement:

Here is my new blog post about Nina Funnell's dishonesty and unprofessional conduct. Please help me circulate it. <http://www.bettinaarndt.com.au/news/more-lies-from-nina-funnell/>

(Post Statement).

2.4 Tweet A consists of a photograph of Nina Funnell and makes the following statement:

I've published a new blog post: More lies from Nina Funnell bit.ly/2WlYkgN

2.5 Tweet B consists of a photograph of Nina Funnell and makes the same statement as the Post Statement at 2.3 above.

2.6 We are instructed that each of the Article Statements, Post Statement, Tweet A and Tweet B are false and baseless and have no apparent purpose other than to bring Ms Funnell into professional disrepute and cause her personal hurt and distress.

3. **Imputations**

3.1 Without limitation, the Article Statements carry the following defamatory imputations;

- (a) Ms Funnell is a liar;
- (b) Ms Funnell lies frequently and habitually;
- (c) Ms Funnell has lied on previous identifiable occasions;
- (d) Ms Funnell is dishonest in her professional work;
- (e) Ms Funnell is unethical;
- (f) Ms Funnell is unprofessional;
- (g) Ms Funnell is biased and partial in her professional work;
- (h) Ms Funnell falsifies and misrepresents facts deliberately in pursuit of an ideological agenda;
- (i) Ms Funnell has written numerous published articles which use false statistics;
- (j) Ms Funnell has written numerous published articles which make misleading or false statements regarding you and your work;
- (k) Ms Funnell has a vendetta or animus towards you and has attempted to harm your reputation by discrediting your work;
- (l) Ms Funnell deliberately used the term 'rape' in a misleading way in her article;

- (m) Ms Funnell has engaged in dishonest and unprofessional conduct, in her capacity as a professional journalist, in support and pursuit of the agenda of EROC and to harm your reputation; and
- (n) Ms Funnell's writing on the subject matter of sexual assault of university students in Australia cannot be trusted and lacks credibility and integrity.

3.2 Without limitation, the Post Statement and Tweet B carry the following imputations:

- (a) Ms Funnell is dishonest;
- (b) Ms Funnell is a liar;
- (c) Ms Funnell lies frequently and habitually;
- (d) Ms Funnell has lied on previous identifiable occasions; and
- (e) Ms Funnell is unprofessional.

3.3 Without limitation, Tweet A carries the following imputations:

- (a) Ms Funnell is dishonest;
- (b) Ms Funnell is a liar;
- (c) Ms Funnell lies frequently and habitually; and
- (d) Ms Funnell has lied on previous identifiable occasions.

3.4 In these circumstances, the Publications are defamatory of Ms Funnell.

3.5 **Action required by you**

3.6 The Publications have caused significant and irreparable damage to Ms Funnell's reputation and have caused her humiliation and embarrassment.

3.7 In order to mitigate the harm suffered by Ms Funnell as a result of the Publications, Ms Funnell requires you to:

- (a) immediately delete the Publications and any links to the Publications;
- (b) immediately cease making defamatory statements, whether orally, in writing or otherwise, in relation to Ms Funnell; and
- (c) **by 5pm, Friday 8 March 2019**, publish an apology and retraction on your Website, Facebook Page and Twitter Feed in wording to be approved by Ms Funnell prior to publication. The apology and retraction on the Website, Facebook Page and Twitter Feed must be published in a location and form at least as prominent as the Blog Article, Facebook Post, Tweet A and

Tweet B. The apology and retraction, in each location it is published, must remain public and unchanged and you must not take any action to purposely subvert its efficacy

(together, **Requirements**).

3.8 Concerns Notice and offer to make amends

3.9 This letter comprises a concerns notice within the meaning of the *Defamation Act 2005* (NSW) (**Act**).

3.10 Pursuant to the Act, you have the opportunity to make an offer to make amends to Ms Funnell within 28 days of receiving this concerns notice. Should the offer to make amends be accepted by Ms Funnell, the matter will be settled without court proceedings.

3.11 In the event that you fail to:

- (a) comply with the Requirements at 3.7 above, including the time requirement at 3.7(c); and
- (b) make a reasonable offer to make amends by **4 April 2019**

we may commence legal proceedings seeking damages and costs without further notice to you. In view of Ms Funnell's reputation and the fact that your defamatory statements directly and maliciously attack her professional work and reputation, the harm you have caused is severe and you should take this matter very seriously.

3.12 Our client reserves her rights in relation to the Publications, including the Article Statements, Post Statement, Tweet A and Tweet B.

Yours sincerely



Michael Bradley
Managing Partner